THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.10637 of 1998

Between:

A.Suryanarayan and others. … Petitioners

and

Government of Andhra Pradesh and others. … Respondents

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.10637 of 1998

ORDER:

It is the case of the petitioners that they are landless poor persons and an extent of Ac.5-00 gts. in favour of each of the petitioners and some others has been assigned under the provisions of A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short the Act") in Sy.Nos.20A and 28A situated at Miyapur Village, Rajendernagar Mandal, Ranga Reddy District, as the said lands are surplus ceiling lands of one Smt.Jeelani Begum, and the possession was given to them on 21-11-1979. It is stated that they also made required payment as per the conditions stipulated in the patta. While so, dispute arose with regard to their right, title and patta and when the petitioners and others were sought to be dispossessed from the lands in question, the petitioners and others filed W.P.No.5855 of 1981 before this Court questioning the action of the Government in allotting the said lands in favour of Hyderabad Urban Development Authority-4th respondent without following due procedure prescribed under law, in which, the respondents contended that the petitioners have already been dispossessed from the lands in question in the year 1981 itself. However, the said writ petition was disposed of on 15-12-1986 holding that the procedure prescribed under the Act has not been followed and directed the respondents to dispose of the representations made by the petitioners and others. Aggrieved by the same, the petitioners and others filed W.A.No.250 of 1987 before the Division

Bench of this Court and the same was disposed of on 13-03-1987 directing the 1st respondent herein to consider and dispose of the representations made by the petitioners and others.

It is further stated that without disposing of the representations and without giving any notice, the lands in question were allotted in favour of the 4th respondent. It is stated that they are the rightful assignees/patta holders of the lands in question and, therefore, they are entitled for payment of compensation for the said assigned lands. It is stated that though the writ petition is filed seeking reconveyance of the lands in question, the petitioners restricted their relief for payment of compensation at the market value for deprivation of their property.

A counter has been filed by the 3rd respondent on behalf of respondents 1 to 3 stating that the lands admeasuring Ac.252-00 gts. and Ac.384-15 gts in Sy.Nos.20 and 28 situated at Miyapur Village, Serilingampally Mandal, Ranga Reddy District, are the patta lands of one Smt.Jeelani Begum and the lands admeasuring Ac.244-00 gts. in Sy.No.20 and Ac.132-31 gts. in Sy.No.28 of Miyapur Village, Serilingampally Mandal, Ranga Reddy District, have been declared as surplus ceiling lands under the Act and the Government took the same into its custody. Thereafter, the land admeasuring Ac.200-00 gts. in Sy.No.20 has been assigned in favour of 40 persons at the rate of Ac.5-00 gts. each and the land admeasuring Ac.120-00 gts in Sy.No.28 was assigned in favour of 23 persons at the rate of Ac.5-00 gts. each in the year 1979. It is further stated that the possession was not given to any of the assignees and in fact the said assignment itself is contrary to the prohibition orders issued by the Government in G.O.Ms.No.1409, dated 19-08-1978, and the village Miyapur is included in the Annexure-IV of the

said G.O., prohibiting the assignment of the lands in the said village. It is stated that as per the Government Memo No.3526/G2/1978-5, dated 19-11-1979, the surplus lands, which were taken over possession on or after 13-10-1977, are not assignable and accordingly, the entire surplus land of Ac.244-00 gts. in Sy.No.20 of Miyapur Village has been taken over by the Government on 08-03-1978 and the same has been handed over to the 4th respondent on 28-07-1981 and the 4th respondent is in continuous possession and enjoyment of the said land.

It is further stated that one Sri S.Ashok Kumar and 63 others including the petitioners herein filed W.P.No.5855 of 1981 before this Court and the same was disposed of on 15-12-1986 directing the respondents to dispose of the representations, if any filed by the petitioners and others under Section 14(3) of the Act. Under Section 14(3) of the Act, where any person fails to pay any sum or any instalment, the Government is entitled to resume the land after giving an opportunity to the persons concerned.

It is further stated that pursuant to the aforesaid order of this Court, the Joint Collector, Ranga Reddy District, has taken up the matter of irregular assignment in respect of the lands in Sy.Nos.20 and 28 of Miyapur Village under Section 166-B of Land Revenue Act, 1317 Fasli in File No.D1/4425/1988 and cancelled 40 assignment certificates covering Ac.200-00 gts. in Sy.Nos.20 and 23 assignment certificates covering Ac.120-00 gts. in Sy.No.28 situated at Miyapur Village, Serilingampally Mandal, Ranga Reddy District, vide proceedings No.D1/4425/1988, dated 17-10-1989 on the grounds that the pattas were granted irregularly in respect of the said surplus lands, as the surplus lands taken over after 13-10-1977 were not assignable; the village Miyapur is included in the Ban Area as per the

Government order; the assignees are not the residents of the Miyapur village and that the said lands are not fit for cultivation. As the said assignment itself is irregular contrary to the prohibition order in exercise of power under Section 166-B of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli, the Joint Collector cancelled all the assignments.

Learned counsel appearing for the petitioners submits that the assignments have been cancelled without conducting any enquiry as contemplated under Section 166-B of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli, and therefore, the order passed by the Joint Collector vide proceedings No.D1/4425/1988, dated 17-10-1989, cancelling the assignment orders, is illegal, arbitrary and unsustainable. It is stated that the said order has not at all been communicated. Therefore, the said order is nonest-in-law and as per the larger Bench Judgment of this Court in ***LAND ACQUISITION OFFICER-CUM-REVENUE DIVISIONAL OFFICER, CHAVELLA DIVISION, HYDERABAD AND OTHERS Vs. MEKALA PANDU AND OTHERS***[1]***,*** the petitioners are entitled for compensation basing on the market value.

Admittedly, the petitioners have not filed any reply with regard to the said contentions that no enquiry has been conducted before passing the said order, dated 17-10-1989, by the Joint Collector and that the cancellation of the assignment is illegal and arbitrary. The petitioners have not substantiated by any legal or factual aspects as to how the assignments made in their favour are legal and valid, when specially it is stated in the counter that the Government issued ban orders in G.O.Ms.No.1409, dated 19-08-1978, and in Annexure-IV of the said G.O., the Miyapur village is included prohibiting the assignment of the lands in the said village. If that be so, it cannot be said that

the assignments made after the said G.O., are legal and valid. Therefore, it cannot be said that there is no basis for cancellation of the assignment orders. However, as the order of the Joint Collector, dated 17-10-1989, has not been questioned, I am of the opinion that the petitioners are not entitled for any relief in this writ petition.

Accordingly, the writ petition is dismissed. However, it is open for the petitioners to question the order of the Joint Collector, dated 17-10-1989, if they are entitled to do so. There shall be no order as to costs.

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10-10-2007

Prv

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[1] 2004 (2) ALT 546 (L.B.)